Steve Hindsay served. 4-18-07 8:51 a.m. [signature]

LAW OFFICES OF KEITH T. SMITH
Suite 202 Ridgewood Plaza
2327 New Road
Northfield New Jersey 08225
Tel. 609-645-7060
Fax 609-645-7063

OLIVIA GUERCIONI, individually, And on behalf of others that are similarly situated.	NEW JERSEY SUPERIOR COURT LAW DIVISION ATLANTIC COUNTY
Plaintiffs	DOCKET NO.: L-1098-07
	Civil Action
v.	
MENU FOODS LIMITED, d.b.a. MENU FOODS, MENU FOODS INC., MENU FOODS MIDWEST CORPORATION, andJOHN DOES 1-10, ABC Corps 1-15 (Fictitious Names)	SUMMONS
Defendants.	

STATE OF NEW JERSEY TO:

MENU FOODS MIDWEST CORPORATION
1400East Logan Ave
Emporia Kansas 66801

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, CN-971, Trenton, NJ 08625. A filing fee payable to the Clerk of the Superior Court and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a

Dockets.Justia.com

Case 2:07-cv-00018-? Document 12-3 Filed 05/09/2007 Page 2 of 17

written answer or motion (with a fee of $135.00 for Law Division and $135.00 for Chancery Division and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford to pay an attorney, call a Legal Services Office. An individual not eligible for free legal assistance may obtain a referral to an attorney by calling a county lawyer referral service. These numbers may be listed in the yellow pages of your phone book or may be obtained by calling the New Jersey State Bar Association Lawyer Referral Service toll-free (800)-852-0127 (within New Jersey) or (201)-249-5000 (from out of state). The telephone numbers for the county in which this action is pending are: Lawyer Referral Service (609) 345-3444, Legal Services Office (609) 348-4200.

Dated: 4-09-07

Donald F Phelan

DONALD F. PHELAN, CLERK

Name and address of defendant to be served:

MENU FOODS MIDWEST CORPORATION
1400East Logan Ave
Emporia Kansas 66801

CIVIL CASE INFORMATION STATEMENT
(CIS)

Use for initial Law Division
Civil Part pleadings (not motions) under Rule 4:5-1
Pleading will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed or if attorney's signature is not affixed.

FOR USE BY CLERK'S OFFICE ONLY
PAYMENT TYPE: CK CG CA
CHG/CK NO.
AMOUNT:
OVERPAYMENT:
BATCH NUMBER:

ATTORNEY/PRO SE NAME KEITH T. SMITH	TELEPHONE NUMBER (609) 645-7060	COUNTY OF VENUE ATLANTIC
FIRM NAME (If applicable) LAW OFFICES OF KEITH T. SMITH		DOCKET NUMBER (When available) L-1098-07
OFFICE ADDRESS SUITE 202 2327 NEW ROAD NORTHFIELD NEW JERSEY 08225		DOCUMENT TYPE CLASS ACTION COMPLAINT JURY DEMAND [X] YES [ ] NO
NAME OF PARTY (e.g., John Doe, Plaintiff) OLIVIA GUERCIONI - PLAINTIFF	CAPTION OLIVIA GUERCIONI V. MENU FOODS LIMITED, MENU FOODS INC. AND MENU FOODS MIDWESTERN CORP. ET AL.	
CASE TYPE NUMBER (See reverse side for listing) 699	IS THIS A PROFESSIONAL MALPRACTICE CASE? [ ] YES [X] NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.	
RELATED CASES PENDING? [X] YES [ ] NO	IF YES, LIST DOCKET NUMBERS Unknown	
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? [X] YES [ ] NO	NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY, IF KNOWN [ ] NONE [X] UNKNOWN	

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? [ ] YES [ ] NO	IF YES, IS THAT RELATIONSHIP [ ] EMPLOYER-EMPLOYEE [ ] FRIEND/NEIGHBOR [ ] OTHER (explain) [ ] FAMILIAL [ ] BUSINESS
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? [X] YES [ ] NO	

USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION:

This is a consumer class action that involves claims for damages arising out of defendants' contaminated pet food products. It is requested that the court actively manage the same.

RECEIVED and FILED
MAR 30 2007
ATLANTIC COUNTY
LAW DIVISION

DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? [ ] YES [X] NO	IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION:
WILL AN INTERPRETER BE NEEDED? [ ] YES [X] NO	IF YES, FOR WHAT LANGUAGE:

ATTORNEY SIGNATURE

SIDE 2

CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under *Rule* 4:5-1

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I — 150 days' discovery

151 NAME CHANGE
175 FORFEITURE
302 TENANCY
399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
502 BOOK ACCOUNT (debt collection matters only)
505 OTHER INSURANCE CLAIM (INCLUDING DECLARATORY JUDGMENT ACTIONS)
506 PIP COVERAGE
510 UM or UIM CLAIM
511 ACTION ON NEGOTIABLE INSTRUMENT
512 LEMON LAW
801 SUMMARY ACTION
802 OPEN PUBLIC RECORDS ACT (SUMMARY ACTION)
999 OTHER (Briefly describe nature of action)

Track II — 300 days' discovery

305 CONSTRUCTION
509 EMPLOYMENT (other than CEPA or LAD)
599 CONTRACT/COMMERCIAL TRANSACTION
603 AUTO NEGLIGENCE – PERSONAL INJURY
605 PERSONAL INJURY
610 AUTO NEGLIGENCE – PROPERTY DAMAGE
699 TORT – OTHER

Track III — 450 days' discovery

005 CIVIL RIGHTS
301 CONDEMNATION
602 ASSAULT AND BATTERY
604 MEDICAL MALPRACTICE
606 PRODUCT LIABILITY
607 PROFESSIONAL MALPRACTICE
608 TOXIC TORT
609 DEFAMATION
616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
617 INVERSE CONDEMNATION
618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV — Active Case Management by Individual Judge / 450 days' discovery

156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
303 MT. LAUREL
508 COMPLEX COMMERCIAL
513 COMPLEX CONSTRUCTION
514 INSURANCE FRAUD
701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Mass Tort (Track IV)

240 REDUX/PHEN-FEN (formerly "DIET DRUG")
241 TOBACCO
248 CIBA GEIGY
264 PPA
266 HORMONE REPLACEMENT THERAPY (HRT)
268 MANUFACTURED GAS PLANT (MGP)
271 ACCUTANE
272 BEXTRA/CELEBREX
274 RISPERDAL/SEROQUEL/ZYPREXA
601 ASBESTOS
619 VIOXX

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category:

☐ Verbal Threshold ☐ Putative Class Action ☐ Title 59

RECEIVED and FILED
MAR 3 0 2007
ATLANTIC COUNTY LAW DIVISION

LAW OFFICES OF KEITH T. SMITH
Suite 202 Ridgewood Plaza
2327 New Road
Northfield New Jersey 08225
Tel. 609-645-7060
Fax 609-645-7063

OLIVIA GUERCIONI, individually, And on behalf of others that are similarly situated.	NEW JERSEY SUPERIOR COURT LAW DIVISION ATLANTIC COUNTY
Plaintiffs	DOCKET NO.: L-1098-07
	Civil Action
v.	
MENU FOODS LIMITED, d.b.a. MENU FOODS, MENU FOODS INC., MENU FOODS MIDWEST CORPORATION, andJOHN DOES 1-10, ABC Corps 1-15 (Fictitious Names)	CLASS ACTION COMPLAINT AND JURY DEMAND
Defendants.	

Plaintiff OLIVIA GUERCIONI, residing at 4 Ships Drive Egg Harbor Township Atlantic County New Jersey 08234 individually and on behalf of others similarly situated by way of complaint through counsel complains of damages against the Defendants as follows:

CLASS ACTION ALLEGATIONS

1. **The Class**. Plaintiff brings this action as a class action pursuant to the R. 4:32 on behalf of all persons and entities residing in the State of New Jersey that sustained damaged and injuries to their pets through contaminated pet food manufactured and or purchased from Defendants between December 3, 2006 and March 16, 2007 (The Class Period), that were recalled by Defendants.

2. Plaintiff submits that the members in the class are so numerous that joinder of all members is impracticable. Over 60 million cans and pouches of food have been recalled.

3. Further Plaintiff's claims are typical of the claims of the other members of the Class. All members sustained damages out of the Defendants placing contaminated pet food into the stream of commerce which was not fit for consumption.

4. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Further since the damages suffered by individual members of the Class may be relatively small, the expense and burden of the individual litigation makes it impossible for the members of the Class individually to redress the wrongs done to them.

5. Common questions of law and fact exist as to all members of the Class and predominate over any questions affecting solely individual members of the Class. Among the questions of law and fact common to the Class are:

(a) Whether Defendants breached implied and express warranties to the class by manufacturing and selling contaminated pet food not fit for pet consumption.

(b) Whether Defendants acted knowingly and fraudulently in failing to warn and disclose problems it knew existed with the food and whether Defendants failure to timely warn, and disclose the problem with its pet food violated the provisions of New Jersey's Consumer Fraud Statute.

(c) Whether the Defendant's negligently monitored the manufacturing of the food, and negligently sold the food that it subsequently recalled.

(d) Whether the class has been damaged, and if so the appropriate measure of damages including the nature of the equitable relief to which the class is entitled. It is submitted that all Plaintiffs will have similar types of damages, including emotional and mental distress in having watch their pet become ill and or die, medical veterinarian expenses for treatment and or monitoring of the affected pet's health as well as the cost of the pets that were lost.

6.The names and addresses of the Class members can be obtained through published notice using forms of notice customarily used in class actions.

JURISDICTION

Plaintiff bases subject matter jurisdiction on the fact that all relevant events occurred in the State of New Jersey, and that this Court has jurisdiction to determine controversies pursuant to the general subject matter jurisdiction conferred on the Court pursuant to Article VI Sec. 3 Paragraph 2 of the New Jersey Constitution , and under New Jersey's Consumer Fraud Act N.J.S.A. 56:8-1 et seq.

Plaintiff bases in personam jurisdiction on the fact that all defendants are employed in and or are doing business in the state of New Jersey.

VENUE

Plaintiff would submit that venue is appropriate in Atlantic County as Plaintiff resides in Atlantic County See R. 4:3-2(3).

FIRST COUNT
(General Allegations and Breach of Express Warranty)

1. Defendant Menu Foods Limited is a Canadian corporation, d.b.a. Menu Foods and is in the business of manufacturing, marketing and selling pet foods for dogs and cats, throughout the United States and in the State of New Jersey at all times relevant to this lawsuit.

2. Defendant Menu Foods Limited's principal place of business is located at 8 Falconer Drive Mississauga Ontario Canada L&N 1B1.

3. Defendant Menu Foods Inc., is a New Jersey Corporation, with its headquarters located at 9130 Griffith Mogan Lane, Pennsauken, New Jersey 08110. Menu Foods Inc. has at all relevant times done business in the State of New Jersey and throughout the United States.

4. Defendant Menu Foods Inc. is a wholly owned subsidiary of Menu Foods Limited and manufactures pet food for distribution in the United States.

5. Defendant Menu Foods Midwest Corporation is a Delaware corporation, with its headquarters at 1400 East Logan Ave Emporia Kansas 66801. Menu Foods Midwest Corporation is a wholly owned subsidiary of Menu Foods Limited and has done business throughout the United States and the State of New Jersey at all relevant times, during which it was and is engaged in the manufacture of pet food for distribution in the United States.

6. Defendant manufactures and or sells cat foods marketed under the following names, Americas Choice Preferred Pets, Authority, Best Choice, Companion, Compliments Demoulas Market Basket, Eukanuba, Fine Feline Cat,

Food Lion, Foodtown Giant Companion, Hannaford Hill, Country Fare, Hy-Vee, Iams, Laura Lynn, Li'l Red, Lovinig Meals, Meijer's Main Choice, Nutriplan, Nutro Natural Choice Paws, Pet Pride, President's Choice, Price Chopper, Priority US, Save-A-Lot, Schunucks, Science Diet Feline Savory Cuts Cans, Sophistacat, Special Kitty Canada, Special Kitty US, Sprinfield Prize, Sprout, Stop and Shop Companion, Tops Companion, Wegmans, Weis Total Pet, Western Family US, White Rose, Winn Dixie.

7. Defendant manufactures and or sells dog food under the following names: AmericasChoice Preferred Pets, Authority, Award, Best Choice, Big Bet, Big Red, Bloom, Wegman's Bruiser, Cadallac, Companion, Demoulas Market Basket, Eukanuba, Food Lion, Giant Companion, Great Choice, Hannaford, Hill Country, Hy-Vee, Iams, Laura Lynn, Loving Meals, Meijer's Main Choice, Mighty Dog Pouch, Mixables, Nutriplan, Nutro Max, Nutro Natural Choice, Nutro Ultra, Nutro, Ol'Roy, Paws, Pet Essentials, Pet Pride, President's Choice, Price Chopper, Priority Canada, Priority US Publix, Roche Brothers, Save-A-Lot, Schnucks, Shep Dog, Springsfield Prize, Sprout, Stater Brothers, Stop & Shop, Tops Companion, Weis Total Pet, Western Family, White Rose, Winn Dixie, Your Pet.

8. Plaintiff purchased "Iams" cat food for her pet, while other class members purchased and fed their pets defendant's food marketed under a different label.

9. Plaintiff Olivia Gruercioni routinely fed her pet cat Misty Defendant's "Iams" cat food.

10. Between March 9, and March 15 Plaintiff Olivia Gruercioni watched

helplessly as Misty began exhibiting signs of sickness, becoming weak lethargic, vomiting and refusing to eat. Misty became so weak and dehydrated that she could not stand as her back legs would give out.

11. On March 15, 2007 and March 16, 2007, Plaintiff Olivia Guercioni took Misty to the veterinarian and was told she was dying of acute kidney failure, due to exposure to toxic substances. Misty died March 16, 2007.

12. Between December 6, 2006, and March 16, 2007, Plaintiff class members fed their pets Defendant's contaminated food and watched their pets become sick.

12. Defendant's foods were contaminated and not reasonably fit for consumption at the time Defendants placed the foods into the stream of commerce for sale.

14. Between December 3, 2006 through March 6, 2007, Defendants failed to adhere to proper safety standards and failed to ensure that the pet food they manufactured and sold was free from contamination.

15. On or about March 16, 2007 the parent company of Menu Foods Limited issued a press release whereby it announced the recall of a portion of the dog and cat food manufactured between December 3, 2006 and March 6, 2007. The recall covers the "cuts and gravy" style pet foods in cans and pouches manufactured at Defendant Menu Food Limited's facilities in Pennsauken New Jersey and in Emporia Kansas.

17. Over 60 Million cans and pouches of food were recalled.

18. Menu Foods Limited admits receipt of complaints in the United States since early December 2006 which raised concerns about its pet food and its impact on the renal health of the pets consuming its products.

19. Defendant began its own tests of its pet food beginning on February 27, 2007 in approximately 40-50 pets.

20. Within only a few days of eating Defendants' food the Defendants' test animals began showing signs of sickness.

21. As of early March 2007 at least seven of defendants test animals died directly as a result of eating Defendants' food.

22. Defendants expressly warranted that the recalled brands of pet food were in fact ingestible food that was safe for consumption by dogs and cats.

23. Defendants made numerous express warranties about the quality of its food and its manufacturing facilities, including but not limited to by way of example, asserting that it "manufactures the private label wet pet food industry's most comprehensive product program with the highest standards of quality" and operates "state of the art" manufacturing facilities.

24. Defendants are strictly liable for injuries and damages resulting from their breach of express warranties for the damages caused by their defective and contaminated food.

25. As a direct proximate cause of Defendant's contaminated food, Plaintiff Olivia Guercioni, and others similarly situated sustained damages, including but not limited to the costs of medical and or veterinarian care expenses for their pets, the costs of the pet that was prematurely killed by defendant's product, as well as emotional pain and suffering.

Wherefore Plaintiff Olivia Guercioni, on behalf of herself and others similarly situated, hereby demands judgment against Defendants Menu Foods Limited, Menu

Foods Inc., Menu Foods Midwest Corp. and John Does 1-10, and ABC Corps. 1-15 for compensatory damages, interest, attorney's fees and costs and such other relief as the Court deems just.

SECOND COUNT
(Breach of Implied Warranty)

1. Plaintiff's hereby repeat and re-allege all of the allegations of the First Count of the Complaint as if fully set forth.

2. At all relevant times Defendants were merchants of pet food pursuant to the New Jersey Uniform Commercial Code N.J.S.A. 12A:2-104 and N.J.S.A. 12A:2-314.

3. Defendants implicitly warranted that the recalled pet food, which was sold to Plaintiff and Class members and fed to their pets, was fit for the ordinary purposes for which it was intended, namely, to safely feed and nourish pets without any resulting negative health effects, pursuant to N.J.S.A. 12A:2-314 of New Jersey's Uniform Commercial Code.

4. Defendants knew that Plaintiff and the Class members would purchase the recalled pet food at issue for the ordinary purpose of feeding their pets.

5. Plaintiff and the Class members purchased and used the recalled pet foods for the ordinary purposes for which such goods are sold, that is feeding them to their pets.

6. The recalled pet foods purchased by Plaintiffs and Class members were unfit for their ordinary purpose when sold. In fact, such pet foods were contaminated and caused sever illness and or death of the pets that consumed them.

7. Defendants breached the implied warranty of merchantability and fitness for a particular purpose in the sale of the recalled pet foods at issue as they were not suitable for the warranted purpose of pet consumption.

As a direct proximate cause of Defendant's contaminated food, Plaintiff Olivia Guercioni, and others similarly situated sustained damages, including but not limited to the costs of medical and or veterinarian care expenses for their pets, the costs of the pet that was prematurely killed by defendant's product, as well as emotional pain and suffering.

Wherefore Plaintiff Olivia Guercioni, on behalf of herself and others similarly situated, hereby demands judgment against Defendants Menu Foods Limited, Menu Foods Inc., Menu Foods Midwest Corp. and John Does 1-10, and ABC Corps. 1-15 for compensatory damages, interest, attorney's fees and costs and such other relief as the Court deems just.

THIRD COUNT
(Negligence)

1. Plaintiffs hereby repeat and re-allege all of the allegations of the First Count of the Complaint through the Second Count of the Complaint as if fully set forth.

2. Defendants owed a duty to Plaintiff pet owners to ensure that their pet food was safe for pets to consume and free from harmful contaminates, such that no pets consuming defendants products would be injured.

3. Defendants breached that duty in the following manner, including but not limited to, failing to adhere to proper safety standards, failing to properly test and monitor the manufacture of its products failure to comply with the standards

contained in the Federal Food Drug and Cosmetic Act as codified at 21 U.S.C. section 301, failure to comply with the standards adopted and set forth in the New Jersey Commercial Feed Law N.J.S.A. 4:4-20.1 et seq and N.J.A.C. 2:68-1.7, failure to timely warn plaintiffs of their defective product and the danger posed by the product.

4. As a direct proximate cause of Defendant's contaminated food, Plaintiff Olivia Guercioni, and others similarly situated sustained damages, including but not limited to the costs of medical and or veterinarian care expenses for their pets, the costs of the pet that was prematurely killed by defendant's product, as well as emotional pain and suffering.

Wherefore Plaintiff Olivia Guercioni, on behalf of herself and others similarly situated, hereby demands judgment against Defendants Menu Foods Limited, Menu Foods Inc., Menu Foods Midwest Corp. and John Does 1-10, and ABC Corps. 1-15 for compensatory damages, interest, attorney's fees and costs and such other relief as the Court deems just.

FOURTH COUNT
(Consumer Fraud)

1. Plaintiffs hereby repeat and re-allege all of the allegations of the First through the Fourth Count of the Complaint as if fully set forth.

2. At all relevant times defendants were "sellers" under New Jersey's Consumer Fraud Act N.J.S.A. 56:8-2 et seq.

3. Defendants had a duty to timely warn purchasers of the potential risks associated with their pet food and to make timely disclosure to the consuming public

concerning the investigation of their pet foods, which duty included the duty to properly label their products.

4.Defendant's failure to make timely disclosures that its pet foods may have been dangerous was done intentionally, and or recklessly.

5. The failure to timely warn when Defendants knew or suspected that there was a potentially serious problem with their pet food and their continued sale of the pet food in view of that risk was a deceptive and unconscionable consumer practice under New Jersey's Consumer Fraud Act N.J.S.A. 56:8-2 et seq.

6. Defendant's failure to properly label its pet foods was also a deceptive consumer practice.

7. As a direct proximate cause of Defendant's intentional and or reckless failure to timely disclose the danger associated with its contaminated food, and properly label its food, Plaintiff Olivia Guercioni, and others similarly situated sustained damages, including but not limited to the costs of medical and or veterinarian care expenses for their pets, the costs of the pet that was prematurely killed by defendant's product, as well as emotional pain and suffering.

8. Plaintiffs are entitled to treble damages and attorney's fees in the event that they are successful in proving a violation under the New Jersey Consumer Fraud Act pursuant to N.J.S.A. 56:8-19

Wherefore Plaintiff Olivia Guercioni, on behalf of herself and others similarly situated, hereby demands judgment against Defendants Menu Foods Limited, Menu Foods Inc., Menu Foods Midwest Corp. and John Does 1-10, and ABC Corps. 1-15 for compensatory damages, treble damages, interest, attorney's fees and costs and such other relief as the Court deems just.

FIFTH COUNT

1. Plaintiff hereby repeats and re-alleges all of the facts contained in the First through the Fourth Counts of the complaint as if fully set forth.

2. Defendant John Does 1-15 and ABC Corps 1-15 are the true owners, operators and directors of the Defendant entities that are directly or indirectly and or vicariously responsible for negligent, reckless and or intentional conduct of the Defendants in the composition, supply of ingredients, manufacture, assembly and marketing of the contaminated pet foods.

3. As a direct and proximate cause of Defendant John Does 1-15 and ABC Corps 1-15's negligent, reckless and or intentional conduct, Plaintiff Olivia Guercioni, and others similarly situated sustained damages, including but not limited to the costs of medical and or veterinarian care expenses for their pets, the costs of the pet that was prematurely killed by defendant's product, as well as emotional pain and suffering.

Wherefore Plaintiff Olivia Guercioni, on behalf of herself and others similarly situated, hereby demands judgment against Defendants Menu Foods Limited, Menu Foods Inc., Menu Foods Midwest Corp. and John Does 1-10, and ABC Corps. 1-15 for compensatory damages, interest, attorney's fees and costs and such other relief as the Court deems just.

LAW OFFICES OF KEITH T. SMITH

DATED: Mar. 30, 2007

By: [signature]
KEITH T. SMITH, ESQ.

DEMAND FOR JURY

Plaintiff hereby demands a trial by jury of twelve persons on all Counts so triable pursuant to R.1:8-2(b) and R. 4:35-1(a).

LAW OFFICES OF KEITH T. SMITH

DATED: Mar. 30, 2007

By: ______________________
KEITH T. SMITH, ESQ.

CERTIFICATION PURSUANT TO R.4:5-1

Pursuant to R. 4:5-1 Plaintiff's attorneys hereby certify to the best of their knowledge, there are no other actions, nor arbitrations pending in which the matter in controversy is the subject but for other individual class actions that may have been brought by other individuals in various states nationwide, and Plaintiff does not contemplate filing any other action or arbitration proceeding, nor are there any other known parties that should be joined to this action.

LAW OFFICES OF KEITH T. SMITH

DATED: March 30, 2007

By: ______________________
KEITH T. SMITH, ESQ.

DESIGNATION OF TRIAL COUNSEL

PLEASE TAKE NOTICE THAT, Keith T. Smith Esquire is hereby designated as trial counsel in the above captioned matter Pursuant to R. 4:25-4.

LAW OFFICES OF KEITH T. SMITH

DATED: March 30, 2007

By: ______________________
KEITH T. SMITH, ESQ.